

COOPERATION DEPARTMENT

The 15th November, 1977

No. 6412-C-II-77/28460.—In continuation of Government Notification No. 1530-C-III-77/12220, dated the 16th May, 1977, the Governor of Haryana is pleased to appoint the Director of Agricultural Refinance and Development Corporation, Chandigarh, as a Member of the District Level Committees for Rohtak and Hissar Districts selected in consultation with Reserve Bank of India, on Agriculture Credit-Intensive Development to watch Institutional credit from co-operatives.

G. L. BAILUR,

Commissioner and Secy.

PUBLIC WORKS DEPARTMENT
(IRRIGATION BRANCH)

The 31st October, 1977

No. 10502-1PW-77/33859.—The Governor of Haryana is pleased to delegate to the Additional Chief Engineer (JLN) and the Additional Chief Engineer (SYL) in the P.W.D. (Irrigation Branch), Haryana, all the powers at present being exercised by the Chief Engineer, Irrigation Works, Haryana, in regard to the financial and administrative matters, with immediate effect.

P. P. CAPRIHAN,

Financial Commissioner and Secy.

IRRIGATION AND POWER DEPARTMENTS

The 12th November, 1977

No. 9450-2PW-II-77/34761.—In exercise of the powers conferred by sub-section (2) of section 5 of the Electricity (Supply) Act, 1948, read with rule 3 of the Punjab State Electricity Board Rules, 1959, the Governor of Haryana is pleased to appoint Shri Jia Lal Jain, Chief Accounts Officer, Haryana State Electricity Board, Chandigarh, as Member, Finance and Accounts, Haryana State Electricity Board, Chandigarh, under clause (c) of sub-section (4) of the aforesaid section 5, for a period of one year from the date he takes over as such, in place of Shri H.L. Gujnani, IAS, who has been transferred.

P. P. CAPRIHAN,

Financial Commissioner and Secy.

IRRIGATION DEPARTMENT

The 14th November, 1977

No. 10819-4 PWI-77/34747.—The Governor of Haryana is pleased to reconstitute the State Irrigation Advisory Committee of the composition set forth below, for a period of two years from the date of the issue of this notification:—

OFFICIAL MEMBERS

- | | | |
|---|----|------------------|
| (1) Irrigation and Power Minister | .. | Chairman |
| (2) Financial Commissioner and Secretary,
Irrigation and Power | .. | Member |
| (3) Chief Engineer, Irrigation | .. | Member-Secretary |

NON-OFFICIAL MEMBERS

- | | | |
|--|--|--------|
| (1) Shri Pritam Singh, Village & Post Office
Sihi, District Gurgaon | | Member |
| (2) Shri Surinder Singh, M. L. A., Village
Ram Nagar, Post Office Charhoni Jatan,
Via Shahbad Markanda, District Kurukshetra | | " |
| (3) Shri Udai Singh, Ex-Sarpanch, Village &
Post Office Mandauti, District Rohtak | | " |
| (4) Chaudhri Tek Ram, M. L. A. (Mundhal Khurad),
57, Park Colony, Bhiwani | | " |

5. Chaudhri Sant Kanwar, M. L. A. (Hassangarh),
Village & Post Office Hamayunpur, Tehsil & District
Rohtak

6. Chaudhri Daya Singh, Advocate, Jind

7. Sbri M. S. Lather, Advocate, Karnal

2. The headquarter of the Committee shall be at Chandigarh where the Committee shall meet monthly under the Chairmanship of Irrigation and Power Minister and in his absence, Financial Commissioner and Secretary, Irrigation and Power, shall preside over the meeting.

3. Three members present, of whom at least one is a non-official member, shall form the quorum for the meeting.

4. The functions of the Committee will be to advise the Minister-in-Charge on general policy matters and specific programmes. The Committee shall also afford a forum for ventilating public grievances relating to the department.

5. In case any matters intended to be discussed at a meeting of the Committee, due notice shall be given to the Secretary of the Committee at least one month before the date of the meeting at which it is to be discussed.

6. The term of the Committee will normally be two years but the Government may, by order extend the period or dissolve and reconstitute the Committee earlier, if they so desire.

7. The members of the Committee will draw their travelling allowance/daily allowance in accordance with the instructions issued,—vide Haryana Government letter No 670-Pol-(4)-72, dated the 4th April, 1972.

8. The Chief Engineer, Irrigation Works, Haryana, shall be the controlling officer authorised to countersign the travelling allowance bills of the members other than M. L. A. s

9. The Secretary, Haryana Vidhan Sabha, will be the controlling officer for the purpose of countersigning the travelling allowance bills of the M. L. A. s appointed as member of the Committee.

10. Government employees appointed as members of the Committee shall be governed by the Travelling Allowance Rules applicable to them.

11. The head of account to which the expenditure is debitable will be intimated to the Accountant-General, Haryana, by the Chief Engineer, Irrigation, Haryana, direct under intimation to Government.

P. P. CAPRIHAN,
Financial Commissioner and Secy.

The 11th November, 1977

No. 12492/3L.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government, at public expense, for a public purpose, namely, for installing Kilm No. 1 in village Baland, tehsil Rohtak, district Rohtak, it is hereby notified that the land in the locality specified below is to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorised the Officers of Irrigation Department for the time being engaged in the undertaking alongwith their servants, workmen, etc. to enter upon and survey land in the locality and do all other acts required or permitted by the section.

Further whereas the Governor of Haryana is satisfied that the land is required for the construction of J. L. N. Lift Irrigation Scheme which is of very urgent importance within the meaning of Clause (c) of sub-section (2) of section 17 of the said Act, and whereas the Governor of Haryana is of the opinion that the provisions of sub-section (2) of the said section are thus applicable, it is hereby directed under sub-section (4) of Section 17 of the said Act that the provisions of section 5-A of the said Act shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Village	Hadbast Number	Boundary																																																																					
Rohtak	Rohtak	Baland	106	A plot of land measuring 16.80 acres comprising of full/part Killa Numbers as below :—																																																																					
				<table><tr><th rowspan="2">Rectangle Number</th><th rowspan="2">Killa Number</th><th rowspan="2">Measure-ment</th><th>Area</th></tr><tr><th>Kanal/Marla</th></tr><tr><td>57</td><td>25</td><td>Whole</td><td>5—0</td></tr><tr><td>58</td><td>21</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>22</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>23</td><td>Whole</td><td>8—0</td></tr><tr><td>74</td><td>1</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>2</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>3</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>8</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>9</td><td>Whole</td><td>8—0</td></tr><tr><td></td><td>10</td><td>Whole</td><td>8—0</td></tr><tr><td>75</td><td>5/2</td><td>Whole</td><td>4—14</td></tr><tr><td></td><td>6/1</td><td>Whole</td><td>0—13</td></tr><tr><td></td><td>6/2</td><td>Whole</td><td>2—3</td></tr><tr><td></td><td>6/3</td><td>Whole</td><td>1—18</td></tr><tr><td colspan="3"></td><td>86—8</td></tr><tr><td colspan="3"></td><td>= 10.80 Acres</td></tr></table>	Rectangle Number	Killa Number	Measure-ment	Area	Kanal/Marla	57	25	Whole	5—0	58	21	Whole	8—0		22	Whole	8—0		23	Whole	8—0	74	1	Whole	8—0		2	Whole	8—0		3	Whole	8—0		8	Whole	8—0		9	Whole	8—0		10	Whole	8—0	75	5/2	Whole	4—14		6/1	Whole	0—13		6/2	Whole	2—3		6/3	Whole	1—18				86—8				= 10.80 Acres
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No. 12500/3-L.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by the Government, at public expense, namely, for installing Kiln No. 1 in village Baland tehsil Rohtak, district Rohtak, for which notification has been issued under section (4) of section 17 read with clause (c) of Sub-section (2) of section 17 of the said act and published.—*vide* Haryana Government Notification No. 12492/3-L, dated 11th November, 1977, in *Haryana Government Gazette, Part I*, it is hereby declared that the land described in the specification below is required urgently for the above purpose.

The declaration is made under the provision of section 6 of the Land Acquisition Act, 1894, for the information all to whom it may concern.

The plans of the land may be inspected in the offices of the Collector, Rohtak District, Rohtak and the Executive Engineer, Mohindergarh Canal Division, No. 1, Rohtak,

SPECIFICATION

District	Tehsil	Village	Hadbast No	Boundary			
Rohtak	Rohtak	Baland	106	A plot of land measuring 10.80 acres comprising of full/part Killa Numbers as below:—			
				Area			
				Rectangle Number	Killa Number	Measure-ment	Kanal/Marla
				57	25	Whole	5—0
				58	21	Whole	8—0
					22	Whole	8—0
					23	Whole	8—0
				74	1	Whole	8—0
					2	Whole	8—0
					3	Whole	8—0
					8	Whole	8—0
					9	Whole	8—0
					10	Whole	8—0
				75	5/2	Whole	4—14
					6/1	Whole	0—13
					6/2	Whole	2—3
					6/3	Whole	1—18
				86—8			
				= 10.80 Acres			
				As demarcated at site			

No. 12508/3L.—Whereas the Declaration under section 6 of the Land Acquisition Act, 1894, in respect of the land specified below has been made and published in *Haryana Government Gazette*,—vide Notification under section 6 No. 12500/3L, dated 11th November, 1977. Now, therefore, in exercise of the powers under section 7 of the Land Acquisition Act, 1894, the Governor of Haryana hereby directs the Collector, Rohtak District, Rohtak to take order for the acquisition of the said land.

SPECIFICATIONS

District	Tehsil	Village	Hadbast No.	Boundary			
Rohtak	Rohtak	Baland	106	A plot of land measuring 10.80 Acres comprising of full/part Killa Numbers as below :—			
				Area			
				Rectangle Number	Killa Number	Measure-ment	Kanal/Marla
				57	25	Whole	5—0
				58	21	Whole	8—0
					22	Whole	8—0
					23	Whole	8—0
				74	1	Whole	8—0

District	Tehsil	Village	Hadbast Number	Boundary			
Rohtak— concl'd	Rohtak— concl'd	Baland— concl'd	106— concl'd	Rectangle Number	Killa Number	Measure- ment	Area Kanal/Marla
					2	Whole	8—0
					3	Whole	8—0
					8	Whole	8—0
					9	Whole	8—0
					10	Whole	8—0
				75	5/2	Whole	4—14
					6/1	Whole	0—13
					6/2	Whole	2—3
					6/3	Whole	1—18
							86—8
							= 10.80 Acres
							As demarcated at site.

By order of Governor of Haryana.

(Sd) . . . ,

Superintending Engineer,
Jawahar Lal Nehru Canal Circle, No. II,
Rohtak.

The 14th November, 1977

No. 21754.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government, at public expense, for a public purpose, namely, for installing Departmental Kiln in village Maina in tehsil Rohtak, district Rohtak, it is hereby notified that the land in the locality specified below is to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the officers of Irrigation Department for the time being engaged in the undertaking alongwith their servants, workmen, etc. to enter upon and survey land in the locality and do all other acts required or permitted by that section.

Further whereas the Governor of Haryana is satisfied that the land is required for installing departmental kiln in village Maina in tehsil Rohtak, district Rohtak, which is of very urgent importance within the meaning of clause (c) of sub-section (2) of section 17 of the said Act, and whereas the Governor of Haryana is of the opinion that the provisions of sub-section (2) of the said section are thus applicable, it is hereby directed under sub-section (4) of section 17 of the said Act, and that the provisions of section 5-A of the said Act, shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Village	Hadbast No.	Area in acres	Boundary
Rohtak	Rohtak	Maina	72	9.75	A plot of land comprising of full field numbers 96 96 96 96
					6, 7, 8, 13

District	Tehsil	Village	Hadbast Number	Area in Acres	Boundary
Rohtak — <i>concl'd</i>	Rohtak — <i>concl'd</i>	Maina— <i>concl'd</i>	72— <i>concl'd</i>	96 14 96	96 15 96 96 96 96 96 95 and part field number, 16 17 18 19 20 16/1 in village Maina in tehsil Rohtak, district Rohtak as demarcated at site and as shown on the index plan.

(Sd.) . . . ,

Superintending Engineer,
Loharu Canal Circle, Rohtak.

PUBLIC WORKS DEPARTMENT
BUILDINGS AND ROADS BRANCH

The 12th October, 1977

No. SE/PWD/B & R/Ambala/1032.—Whereas it appears to the Governor of Haryana that land is likely to be required to be taken by Government, at public expense, for a public purpose, namely, for constructing link road from Haryana State Highway to Gurudwara Nada Sahib, It is hereby notified that land in the locality described below is likely to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section the Governor of Haryana is pleased to authorise the Officers, for the time being engaged in the under taking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Further, in exercise of the powers under the said Act, the Governor of Haryana is pleased to direct that action 17 (2) (b) be taken in this case, on grounds of urgency and that the provisions of Section 5-A shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Locality/Village	Hadbast No.	Area in acres	Khgsra No.	Remarks
1	2	3	4	5	6	7
Ambala	Kalka	Nada	199	1.00	529 108 104, 102, 105	, 106, 107

No. SE/PWD/B&R/Ambala/541.—Whereas the Governor of Haryana is satisfied that the land specified below is needed by Government, at public expenses, for a public purpose, namely, for constructing link road from Haryana State Highway to Gurudwara Nada Sahib. It is hereby declared that the land described in the specification below is required for the above purpose for which notification No. SE/PWD/B & R/Ambala/1032, dated 12th October, 1977 under section 4 read with clause (c) of sub-section (2) of section 17 of the Act has been published.

This declaration is made under the provision of section 6 of the Land Acquisition Act, 1894 to all whom it may concern.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, P.W.D., B. & R., Ambala and of the Executive Engineer, Construction Division, Haryana, P.W.D., B. & R. Branch, Chandigarh.

In view of the urgency of the acquisition the Governor of Haryana in exercise of the powers under section 17(1) of the said Act, is further pleased to direct that the Land Acquisition Collector, P.W.D., B. & R., Ambala, shall proceed to take possession out of the land here in specified any waste or arable land in accordance therewith.

SPECIFICATION

District	Tehsil	Locality/Village	Hadbast No.	Area in Acres	Khasra No.	Remarks
Ambala	Kalka	Nada	199	1.00	529 —, 106, 107 108 104, 102, 105	

(Sd)

Superintending Engineer,
Ambala Circle, P.W.D., B. & R. Branch,
Ambala Cantt.

IRRIGATION DEPARTMENT

ADDENDA AND CORRIGENDA

The 15th November, 1977

No. 24749/1-L/SYL/III.—Addenda and Corrigenda to the Notification under section 4(17) issued,—vide No. 8682/1-L/PT/III/SYL, dated 2nd July, 1976 and declaration under section 6 issued,—vide No. 8683/1-L/PT/III/SYL, dated 2nd July, 1976, for the construction of Sutlej Yamuna Link Canal aligned opposite R. D. 265480 feet to R.D. 299340 feet left side of Narwana Branch, in villages Hansala, Bichganwah, Dabkheri, Gulabgarh, Josar, Roagarh, and Mirzapur, in tehsil Thanesar, district Kurukshetra, published in *Haryana, Government Gazette*, Part I, dated 13th July, 1976.

The following field/Khasra Nos. may also be read along with the field/Khasra Nos. already published with the above notification and declaration.

Serial No.	District	Tehsil	Village	Hadbast No.	Field Nos.
1	Kurukshetra	Thanesar	Gulabgarh	426	5, 8, 17, 27, 42, 43, 322, 323, 324, 325 and 326.

R. M. SAREEN,

Superintending Engineer,
[Sutlej Yamuna Link Canal Circle No. III,
Karnal.

LABOUR DEPARTMENT

The 7th November, 1977

No. 11516-4 Lab-77/29152.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s New Allenberry Works, 14/7, Mathura Road, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 229 of 1976

Between

SHRI OM NARAIN PANDEY WORKMAN AND THE MANAGEMENT OF M/S NEW ALLENBERRY
WORKS, 14/7, MATHURA ROAD, FARIDABAD

Present.—

Shri M. S. Rathi, for the workman.

Shri D. C. Bhardwaj, for the management.

By order No. ID-42524, dated 16th November, 1976, the Governor of Haryana, referred the following dispute between the management of M/s New Allenberry Works, 14/7, Mathura Road, Faridabad, and its workman Shri Om Narain Pandey, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) subsection (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the dismissal of Shri Om Narain Pandey was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were given to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issue was framed on 27th April, 1977.

Whether the domestic enquiry has been conducted in accordance with principle of natural justice and is not vitiated ?

The case was fixed for the evidence of the management. The management examined Shri K.D. Kulkatkar, Enquiry Officer, who stated that he gave all opportunities to the workman concerned for cross examining the witness for the management and that he held the enquiry proceedings in accordance with the standing orders of the management. In cross examination he stated that he told the workman that he shall give him the copies of the whole of the enquiry proceedings on its conclusion and thereafter the workman concerned left the enquiry. The management closed their case.

Then the case was fixed for the evidence of the workman who stated that full opportunity for cross examining the witness was not given to him. He demanded copies of the enquiry proceedings, —vide his letter copy whereof is Exhibit W-1 which is dated 14th July, 1976. He admitted in cross examination that he participated in the enquiry up to 19th July, 1976. He further stated that he gave the original of Exhibit W. 1 to the enquiry officer, the enquiry officer told him that he shall supply the copy of the enquiry proceedings on completion of the enquiry. He further admitted in cross examination that after 19th July, 1976, he did not demand copies of the enquiry proceedings, rather he said that when he gave application in original, copy whereof is Exhibit W. 1 to the enquiry officer and demanded his signatures, he told him to wait and after about an hour he went to him on call, enquiry officer gave him the order of termination of his service. The workman closed his case.

The case was fixed for hearing of arguments. Arguments were addressed and heard. The representative for the workman argued one point only that the workman concerned was not supplied copies of enquiry proceedings relying on clause (H) of Section (Q) of their standing orders which is on page 27 of the copy of the standing orders. He argued that copies of the enquiry proceedings should have been given to him and therefore the enquiry is vitiated. On the contrary the representative for the workman argued that clause (H) relates to supply of copies to the workman concerned on conclusion of the enquiry proceedings.

I have gone through the enquiry proceedings as well as the relevant section and clauses of standing orders of the management. The enquiry proceedings are signed by the workman concerned on each page up to the proceedings held on 12th July, 1976. Thereafter the enquiry was adjourned to 19th July, 1976. In the proceedings, dated 19th July, 1976, it is recorded that the workman concerned asked for copies and the enquiry officer told him that he shall give him all the copies on the conclusion of the enquiry. The enquiry concluded on the same day on 19th July, 1976, but hearing the reply of the enquiry officer the workman had left the enquiry and thereafter proceedings, dated 19th July, 1976, were held *ex parte* in absence of the workman concerned. The workman concerned also has admitted that on 19th July, 1976, when the enquiry officer told him that he shall supply copies of the enquiry proceedings on completion of enquiry, he had gone out as the enquiry officer told him to wait for some times when the workman concerned asked him to give signatures for the receipt of the letter asking him for supply of copies of the enquiry proceedings. I do not find any fault in enquiry proceedings. The only question for determination is whether the enquiry officer should have supplied the copies of the enquiry proceedings to the workman concerned when the workman concerned asked him to supply those copies or he should have supplied those

copies on the completion of the enquiry. Both parties had relied on clause (H) of section (Q) of the standing orders of the management. No other argument was addressed, nor any law was cited. I have perused clause (H) of section (Q) of the standing orders of the management. I give below clause (c) to (H) of Section (Q) of the standing orders of the management.

(c) If on the conclusion of the enquiry or of the criminal proceedings, the workman has been found guilty of the charge framed against him and it is considered, after giving the workman concerned, a reasonable opportunity of making representation on the penalty proposed, the employer shall pass an order accordingly.

(d) If a workman is found guilty under clause (c) above and it is considered that the period of suspension up to the conclusion of the enquiry was sufficient punishment orders shall be passed to reinstate the workman and treating the period of suspension as punishment without any further payment for the period excepting the suspension allowance admissible, provided that this period of suspension shall not exceed 30 days.

(e) If on the conclusion of the enquiry of the criminal proceedings, the workman has been found to be not guilty of the charges framed against him, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension after deducting the subsistence allowance paid to him for such period.

(f) The payment of subsistence allowance under this Standing Orders shall be subject to the workman concerned not taking up any employment during the period of suspension and reporting daily at the commencement of his shift at the Time Office for marking his attendance.

(g) In awarding punishment under this Standing Order, the management shall take into account the gravity of the mis-conduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist.

(h) A copy of the orders passed by the Manager shall be supplied to the workman concerned, whereupon the order shall become operative. If the workman makes an application a copy of the enquiry proceedings shall be supplied to him without delay."

Clause (c) provides that on the conclusion of the enquiry if the workman is found guilty, the workman shall be given reasonable opportunity of making representation on the penalty proposed and the employer shall pass an order accordingly.

Clause (d) provides that if the workman is found guilty on the conclusion of the enquiry and it is thought that suspension has proved sufficient punishment the workman may be reinstated.

Clause (e) provides that if on the conclusion of the enquiry the workman is found not guilty, he shall be considered on duty and shall be paid the difference in wages and suspension allowance.

Clause (f) speaks that subsistence allowance shall not be paid if the workman concerned takes up to employment.

Clause (g) provides that in awarding punishment the management shall take into account the gravity of misconduct the previous record of the workman and other extenuating or aggravating circumstances if any.

Then clause (H) come in, it reads as follows :—

The copies of the order passed by the Manager shall be supplied to the workman concerned whereupon the order shall become operative. This part also relates to the period after completion of enquiry proceeding.

The second part of clause (H) reads as follows :—

If the workman makes an application a copy of the enquiry proceedings shall be supplied to him without delay.

Reference to contest proved that clause (H) applies and comes into play after the completion of the enquiry proceedings. Clause (H) first speaks that the copy of the order passed by the Manager shall be supplied to the workman concerned and thereupon the order shall become operative and if the workman makes an application, a copy of the enquiry proceedings shall be supplied to him without delay. It means that when the order of the Manager has become operative and the workman makes an application for copies of the enquiry proceedings, he shall be supplied those copies without delay. A close perusal of clause (H) suggests that this clause applies after completion of the enquiry and after the Manager has passed orders and the order has been given to the workman concerned.

I, therefore, hold that clause (H) of section (Q) does not help the workman concerned. I, therefore, find the issue in favour of the management. I, therefore, give my award that dismissal of Shri Om Narain Pandey was justified and in order. He is not entitled to any relief.

NATHU RAM SHARMA,

Dated the 27th October, 1977.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 1025, Dated 27th October, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 27th October, 1977.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 11517-4Lab-77/29154.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Bhiwani Textile Mills, Bhiwani.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 12 of 1972

between

THE WORKMAN AND THE MANAGEMENT OF M/S BHIWANI TEXTILE MILLS,
BHIWANI

Present—

Shri Onkar Parshad, for the workman.
Shri B. R. Ghai, for the management.

AWARD (INTERIM)

By order N.J. ID/HSR/18-1-71/4586, dated 1st February, 1972, the Governor of Haryana, referred the following disputes between the management of M/s Bhiwani Textile Mills, Bhiwani and its workman to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

- (1) Whether the workers should be supplied cloth manufactured in the factory at the cost prices? if so, with what details?
- (2) Whether the existing Cycle stand should be remodelled providing more place for placing cycle to the workers in the factory? if so, with what details?
- (3) Whether arrangement for providing cheap meal @ 50 paise per meal should be made in the canteen of the factory? if so, with what details?
- (4) Whether the basic pay of Shri Dhani Ram, son of Shri Rup Ram should be increased? if so, with what details and from which date?
- (5) Whether the workers working on Dying Range Machines in Dying Section should be designated as Machineman and paid as such? If so, with what details?
- (6) Whether Shri Arjan Singh, son of Shri Goanda should be paid double wages for 31st May, 1970? If so, with what details?
- (7) Whether Shri Arjun Singh, son of Shri Khem Singh should be compensated from the loss suffered by him in wages on account of his transfer from Binding Section to paper Combyding with effect from 17th May, 1970? If so, with what details?

- (8) Whether sub pension of Shri Chauth Mal, son of Shri Kalu Ram from 24th March, 1970 to 27th March, 1970 was justified and in order? If not, to what relief is he entitled?
- (9) Whether the workers mentioned in enclosed list as Annexure (A) are entitled to the grant of National and Festival Holidays? If so, with what details?
- (10) Whether the termination of services of Shri Brahma Nand was justified and in order? If not, to what relief is he entitled?
- (11) Whether the suspension of the following workmen for the period noted against them was justified and in order? If not, to what relief are they entitled?
 - (1) Shri Ram Bali 17th and 18th August, 1969
 - (2) Shri Daya Krishan 14 and 15th April, 1970
 - (3) Shri Brahma Nand 22nd November, 1969
- (12) Whether the workmen should be granted Wheat Loan Advance? If so, with what details?
- (13) Whether the workmen (list enclosed) Annexure 'B' should be confirmed? If so, with what details?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 9th April, 1973.

- (1) Whether no industrial dispute existed between the management of Bhiwani Textile Mills and the Bhartiya Mazdoor Sangh before the order of reference? If so, with what effect?
- (2) Whether the demands covered by item Nos. 1 and 12 of the order of reference do not constitute industrial dispute within the meaning of the Industrial Disputes Act?
- (3) Whether the demand covered by item No. 4 of the order of reference stands settled by settlement, dated 7th December, 1970?
- (4) Whether the workers should be supplied cloth Manufactured in the factory at the cost prices? If so, with what details?
- (5) Whether the existing Cycle stand should be remodelled providing more place for placing cycle to the workers in the factory? If so, with what details?
- (6) Whether the basic pay of Shri Dhani Ram, son of Shri Rup Ram should be increased? If so, with what detail and from which date?
- (7) Whether the workers working on Dyeing Range Machines in Dyeing Section should be designated as Machineman and paid as such? If so, with what details?
- (8) Whether Shri Arjun Singh, son of Shri Goanda should be paid double wages for 31st May, 1970? If so, with what details?
- (9) Whether Shri Arjun Singh son of Shri Khem Singh should be compensated from the loss suffered by him in wages on account of his transfer from Banding Section to paper Combyding with effect from 17th May, 1970? If so, with what details?
- (10) Whether sub pension of Shri Chauth Mal son of Shri Kalu Ram from 24th March, 1970 to 27th March, 1970 was justified and in order? If not, to what relief is he entitled?
- (11) Whether the workers mentioned in enclosed list as Annexure 'A' are entitled to the grant of National and Festival Holidays? If so, with what details?
- (12) Whether the termination of services of Shri Brahma Nand was justified and in order? If not, to what relief is he entitled?

- (13) Whether the suspension of the following workmen for the period noted against them was justified and in order? If not, to what relief are they entitled?

(1) Shri Ram Bali	17 and 18th August, 1969
(2) Shri Daya Krishan	14 and 15th April, 1970
(3) Shri Brahma Nand	2nd November, 1969

- (14) Whether the workmen should be granted Wheat Loan Advance? If so, with what details?

- (15) Whether the workmen (list enclosed) Annexure 'B' should be confirmed? If so, with what details?

My learned predecessor again framed another additional issue which is given below on 16th April, 1974.

- (16) Whether arrangement for providing Cheap Meal @ 50 paise per Meal should be made in the Canteen of the factory? If so, with what details?

The parties led their evidence and closed their case. Arguments were heard. The parties also filed written arguments.

Issue No. 1

Issue No. 1 has been decided by my learned predecessor on 27th June, 1973.

Issue No. 2.

There is not an iota of evidence on this issue. Neither the parties addressed any arguments on this issue. I have seen the written arguments filed by the parties also. None of the parties have addressed any arguments in writing on this issue. I, therefore, decide this issue against the management and hold that the demand covered by item Nos. 1 to 12 constitute an industrial dispute within the meaning of the Industrial Disputes Act.

Issue No. 3.

I have seen the settlement filed by the management. A settlement in respect of demand notice dated 24th September, 1969 is Exhibit M-1. Another settlement in respect of demand notice dated 6th September, 1969 is Exhibit M-2. These are the copies of settlement filed by the management. Settlement Exhibit M-1 is un-dated. Settlement Exhibit M-2 dated 8th March, 1970 was arrived at between the Technological Institute of Textiles, Bhiwani and its workmen. By Ex-1 the workmen of this management agreed that para Nos. 1 to 8 of settlement dated 8th March, 1970 between the management of M/s Technological Institute of Textiles Mills, Bhiwani and its workmen shall be binding on them. Therefore, I have gone through Ex. M-2 also a settlement between the Technological Institute of Textiles Mills Bhiwani and its workmen. I have gone through carefully through all the paras of settlement. There are 8 paras in this settlement. Para No. 4 of Ex. M-2 provides for annual increments whereas demand No. 4 is whether the basic pay of Shri Dhani Ram son of Shri Rup Ram should be increased, hence para No. 4 of this settlement does not apply and does not cover this demand. Para No. 4 of Ex. M-2 providing for annual increment is a separate subject and that does not apply to demand No. 4. Other paras also do not apply to demand No. 4, hence I decide issue No. 3 against the management and hold that the demand covered by item No. 4 does not and settled by the said settlement. Moreover, the operation of that settlement came to an end on 31st December, 1973 as per para No. 2 of Ex. M-1 settlement.

Issue No. 4.

W. W. 9 Shri Maya Ram Sharma has stated that cloth at cost price should be supplied to the workmen and their demand is genuine as the retail price of cloth in the market has gone enormously high and that such retail cloth shops have been provided for the benefit of the workmen outside the Birla Cotton Mills and Ayudhia Textile Mills at Delhi. He further stated that in Bhiwani also some cloth merchants supplied cloth to their employees at cheaper rates. In cross examination this witness stated that the workers of Birla Cotton Mills and Ayudhia Textile Mills at Delhi are getting cloth from their employers at concessional rates. The management examined one Shri N. S. Mehta, their factory Manager on this issue as M. W. 4 who had stated that they are manufacturing Control cloth to the tune of 95 per cent of their total production which is sold to the allottees appointed by the Textile Commissioner. He further stated that

the cost price of the cloth manufactured by the management cannot be ascertained. He had further stated that even there is no such system prevalent in T. I. T. Mill., Bhiwani. That is the whole evidence before me on this issue.

I have considered the entire evidence on this issue and the arguments oral as well as written addressed by the parties on this issue. The learned representative for the management has argued that this demand of the workman is not tenable as the workers are getting shares in surplus profits. He has also drawn my attention to balance sheet and profit and loss account for the year 1972-73, 1973-74 and 1974-75. But this demand was raised by demand notice, dated 12th October, 1970, hence the balance sheet for the years mentioned above are not relevant. The reference is pending since 14th February, 1972. Therefore, I do not attach any importance to these balance sheets as far as this issue is concerned. The management has further argued in their written arguments that this is not an industrial dispute. On the contrary the workman have argued in their written arguments that the wages paid to the workmen are far below the fair wage and their demand is satisfied in view of rising trend in price of cloth. But Mr. Ghai while arguing stated that they are ready to supply cloth to the union at Ex-Mill price in at least a bale system in respect of cotton clothes and in a case system in respect of Terryine cloth and the union may distribute that cloth to the workman. The representative of the workman argued that the workman are very poor and they can not purchase a bale of cotton cloth and a case of Terryine cloth as they have no funds. Therefore, the representative for the workman argued that the union may be provided cloth in loose parcels. Then a question of excise duty arose and then the representative for the workmen argued that the excise duty is leviable whether the cloth go out of the mills in bale or in parcel but the representative for the management argued that it was not possible to get the cloth out of the mills in loose parcel according to the system of working of the excise department.

I have considered this demand from all angles of vision. I think that the demand is justified. It is a common knowledge that the price of cloth have arisen considerably and it is justified that the workmen who manufacture the cloth may get cloth at the cost price. What would it matter if no profit is earned on the cloth sold to those workmen who manufacture that vary cloth but the management has stated that it is not possible to ascertain the cost price. I do not believe this statement of the management. Every producer can ascertain and ascertain the cost price of the thing that he produces, otherwise it becomes difficult to work for profit. But the workmen have not given reliable evidence that the management can ascertain and ascertain the cost price of the cloth that he produces. Therefore, I think the ends of justice would meet if the workmen are supplied cloth at the Ex-Mill price. The question then may arise as to whether the workman might not use this benefit for gain whereas they have demanded this benefit for their own use, hence details have to be given. Here I would fix the family of a workman as 4 members. The workman, his wife and two children. Each of them may have two cotton pants and two Terryine pants per year. Similarly they should have two cotton shirts and two terryine shirts per year and each may have four under wears. As far as the supply of cotton cloth is concerned. The family consisting of four members as given above may be supplied cotton cloth measuring 80 yards the maximum per year. Cotton cloth is used for other purposes also then dresses, hence 80 yards of cotton cloth should be supplied to every workman for his use and for the use of his family per year at Ex-Mill price.

Similarly 20 yards of Terryine cloth the maximum should be supplied to every workman at Ex-Mill price. The workmen may purchase at Ex-Mill price lesser quantity of cloth than the quantity given above but shall not get more than that as of right—per this award. But he may purchase cotton cloth in lieu of Terryine cloth detailed as above.

The learned representative for the management argued that they themselves can not distribute and the distribution work should be taken by the union and union should pay price of the cloth at one time when they purchase the cloth either in a bale or in a case but not in loose parcel. This argument of the management does not appeal to me. They can keep one bale of cotton cloth and one case of terryine cloth somewhere out of the mill gate, but in the vicinity of the mills and the workman can purchase from that place as much as they like to the extent of the above said maximum limit and pay the price of the cloth purchased by them. A day or two may be fixed in a month for such distribution of cloth that is the sale of cloth to the workman at ex-Mill rate. I, therefore decide this issue accordingly in favour of the workman.

Issue No. 5.—The management have provided a bigger cycle stand and have placed its sketch on the file. When the management have provided a bigger cycle stand to the workman, they have considered the demand in principle to provide for a bigger cycle stand. Therefore, the discussions of evidence is not necessary in this respect, but the question that arise here is that the management have provided this new bigger cycle stand at a distance of about $\frac{1}{2}$ furlongs. The workmen have to place their cycles on this cycle stand, than have to walk about $1\frac{1}{2}$ furlongs from that place on foot to the gates of the mills, it takes time also and it has not given as much facility, as was availed of by the workmen by the old cycle stand, which was opposite the mills gate. The reference reads as follows :—

Whether the existence cycle stand should be remodelled providing more place for placing cycle of the workers of the factory ? If so, with what details ?

As the management has provided another cycle stand bigger in size but at a considerable distance, it has become difficult for me to answer this reference. At present the cycle stand existing at the time when the reference was made does not exist. It is surprising as to what led the management to change the site of the cycle stand without permission or information to this Tribunal when the Tribunal was asked of the matter. At least they should have informed the Tribunal or, better, have taken permission from the Tribunal for changing the place of the then existing cycle stand, for which separate proceedings may be taken. But I have to add that the present cycle stand, although a bigger one adds to the hardship of the workman. It is about $1\frac{1}{2}$ furlong away from the gates of the mills.

W.W. 9 Shri Maya Ram had stated that most of the workmen do not utilise the new bigger cycle stand and place their cycles in front of the factory gate and there is no safety for their cycles. It is further stated that land in front of the factory gate is utilised for agricultural purposes and is a common passage and there is no shed out of the factory gate where they place their cycles and in summer even their cycles are punctured on account of heat. This is correct, but it is not known as to who is the owner of that agricultural land. Therefore, I can not decide that the cycle stand should be provided on that agricultural land but, considering the evidence, I am of the view that as big cycle stand as could accommodate the cycles of workmen just near the gates of the mills within a distance of 100 yards is a necessity of the workmen but as the then existing cycle stand does not exist now at that place, how can I decide whether the then cycle stand should be remodelled or not. This demand has become infructuous as the then existing cycle stand does not exist there. But the workmen are not debarred from raising another dispute with regard to having sufficiently bigger cycle stand near the factory gate. This issue is decided accordingly.

Issue No. 6.— The workmen have examined as many as six witnesses on this issue. W.W. 1 is Shri Dhani Ram the workman concerned who has stated that he was working on bleaching machine and Bathi and Shri Rohtas and parkash are working as his helpers and all the three were getting the same grades and that a raw hand can not operate this machine. He started working on this machine near about the year 1967-68. He further stated that Gulzari Lal was getting higher wage than him while working on the similar machine and Gulzari Lal and he have been in the service of the management for the same period. In cross-examination he admitted that Fathe Chand was also working on the machine and Bathi and he was also getting wages higher than what he was getting. Shri Gulzari Lal was getting Rs 14 more than what he was getting. Although he could not tell whether Gulzari Lal was getting higher wages previously also before working on the Bathi. W.W. 2 Shri Fathe Chand stated that he was also working on the machine three years after when he joined service 14 years ago. He also had two helpers Banarsi and Ram Niwas. He stated that he was getting Rs 5 more than Dhani Ram. W.W. 3 Suraj Baksh stated that he had been working on the machine since 1971 and had two helpers Gopi and Sham Lal. He also stated that a raw hand can not work on the machine. He stated that the persons working on the machine and the helpers were in the same grades. He expressed his ignorance whether Sarvshri Gajraj and Mahi Pal had been getting higher pay before they were made to work on the machine. On attendance cards W.W. 2, W.W. 3 have been described as workmen. W.W. 4 and W.W. 5 and W.W. 6 corroborated the statements of W.W. 1 and have even stated more than what W.W. 1 has stated. On the contrary the management examined Shri Narain as M.W. 1 who stated that Shri Gulzari Lal was getting higher wage previously and his pay was not reduced. He further stated that Mahi Pal and Jagraj were transferred to Dying department and there was no difference in their wages. This witness also admitted that a beginner can not work on the machine. He has to work as a helper for some times. He further admitted that Gulzari Lal, Fateh Chand and Dhani Ram worked on the Kier machine in three different shifts and all of them are provided with helpers. M.W. 2 Shri Tulsi Dass head time keeper of the management deposed regarding Brahma Nand and other workmen whose cases stand settled. This witness gave the minimum wage of unskilled, semi-skilled and skilled workmen and filed some statements. Other witnesses for the management have not deposed on this issue.

It is strange that Dhani Ram is working on the machine and he is not paid due wages. Even it is in the admission of the management witnesses that a raw hand can not operate the machine and one has to work as a helper for some times before he is posted to work on the machine. It does not matter to me whether the previous wage of Gulzari Lal and Mahi Pal were protected by the management. It is good, that the management protected the wages of these two workmen. It was their legal obligation that they performed but the question is whether Dhani Ram who is working on machine should be paid his due wages or not. It does not stand to reason that when he is provided with two helpers, he is also in the grade of a helper. It is in the admission of the management evidence that this man is working on machine. The management could not refute this truth. The management has produced Ex. M-1 showing the rate of wages of Dhani Ram at Rs 34 whereas Gulzari Lal has been shown to receive Rs 48 as wages. It does no matter that Dhani Ram has not been shown as machine man on his attendance cards. It is the management who shows the categories of the workmen on his attendance cards. In Ex. M-1 the categories of workmen have not been given. In Ex. M-2 the categories of workmen have been given, therein Sarvshri Gajraj, Mahi Pal and Mangtoo have been shown as machineman whereas others have been shown as helpers. The name of Shri Dhani Ram appears in Ex. M-1 which is a statement showing the rates of workers working on bleaching machine. It leads me to conclude that the management has shown Dhani Ram as a worker. It is a well established fact and proved beyond doubt that Shri Dhani Ram is working on the machine since 1967-68. I fail to understand why Dhani Ram has been paid as a worker while he is working on the machine and has not been paid the wages of a machineman. When Mahi Pal, Gajraj and Mangtoo are machinemen and are paid the wages of

machinemen, why Dhani Ram should not be paid the wages of machineman. The management witness M.W.1 has clearly stated that Gulzari Lal, Fathe Chand, Dhani Ram worked on the Kier machine in three different shifts and they are provided with helpers. When Gulzari Lal is paid Rs 48, why Dhani Ram should be paid Rs 34. The management have stated and argued that they have protected the previous wage of Gulzari and Mahi Pal but I fail to understand as to what they protected, they are taking the work of a machineman from them and are paying them less than the wages of a machineman. When Dhani Ram works this machine in one shift in his shift, it means that he is in charge of the machine and is provided with two helpers. The management have made a great distinction as they are paying Sarvshri Mahi Pal, Gajraj and Mangtoo the wages of a machineman whereas they are paying to Dhani Ram, Fathe Chand and Gulzari Lal the wages in workmen grades. But here I am not concerned with Gulzari Lal and Fathe Chand. To me only the matter of Dhani Ram is referred. From the evidence before me I conclude that Dhani Ram, when he performed equal duty to Gulzari Lal, should not be paid less wages. It is in the evidence of the management that raw hand and a beginner can not work on the machine. Mahi Pal and others have also worked as helpers for about three years and a beginner and a raw hand can perform the duty of a helper. Therefore, it stands to reason that Dhani Ram is not a un-skilled workman. When he works on the machine in his shift independently and is provided with two helpers who are un-skilled workmen, he can not be designated as an un-skilled workman. I take him to be at least semi-skilled workman. Next higher category to un-skilled workmen is semi-skilled (A). I, therefore, decide that Dhani Ram should be paid the wages of semi-skilled (A) workman.

The order of reference was made in the year 1972. The demand was raised in the year 1970. Therefore, I hold that Shri Dhani Ram, son of Shri Rup Ram should be paid the wages of semi-skilled (A) from 1st February, 1972, i.e., the date of the notification of the reference. I decide this issue accordingly.

Issue No. 7.—The workmen have examined Shri Manga as W. W. 4 and Shri Mangtoo as W.W. 5 who have deposed that they worked as helpers for two years and thereafter were made to work on a machine. They were assisted by two helpers. Similarly Shri Mangtoo has stated that he joined service in the year 1965 as a helper but three years thereafter he started working on a machine. He stated that Mahi Pal and Gajraj are also working on the machine but they are getting higher wage. He admitted in cross-examination that Mahi Pal, Gajraj, have been shown as machinemen on their attendance cards and he has been shown as a workman on his attendance card. He further stated that besides the machineman, two workers work on the machine and it is the machineman who actually operates the machine and his duty was to look after the proper working of the machine without causing any damage to the cloth and the helpers assist in bringing the material and removing the cloth. I have perused Ex. M-2 produced by the management. They have shown Mangtoo as machineman at S. No. 3 although the management has shown Manga as helper at S. No. 4 in Ex. M-2 but there is no rebuttal of the fact that Mangtoo and Manga do not work on the machine. Nor there is any suggestion in the cross-examination that they are helpers only and are not operating the machine. The management has done injustice to these two persons named Shri Mangtoo and Manga denying them the wages of machinemen. Even M.W.1 has admitted that Manga and Mangtoo and others have been working on the drawing range machine and they are given helpers i.e. two helpers for one machineman. Therefore, it is admitted fact in the evidence of the management that Manga and Mangtoo are machinemen. The management is paying wages of the machineman to Mahi Pal and Gajraj and not to Mangtoo and Manga. It is proved that Manga is not a helper and Mangtoo has been shown as machineman in Ex. M-2. No other person named in Ex. M-2 has appeared before me as his own witness. Therefore, I cannot decide regarding other workmen but hold that Mangtoo and Manga should be paid the wages of machinemen from 1st February, 1972, the date of notification of the reference. Although they are working on the machine much prior to the date of reference. I, therefore, decide this issue accordingly.

Issue No. 8.—The representative for the workmen did not press demand No. 6 which is under this issue, hence I decide this issue against the workmen.

Issue No. 9.—Demand No. 7 is under this issue. There has been a compromise in this matter. The representative for the workmen has given a statement that if the management pays Rs 60 only to Shri Arjan Singh, son of Shri Khem Singh, the workman concerned, he shall give up the demand. The management agreed to this, hence I decide this issue as follows :—

“That on payment of Rs 60 to the workman concerned Shri Arjan Singh, son of Shri Khem Singh, this demand shall stand withdrawn. The issue is decided accordingly.”

Issue No. 10.—Demand No. 8 is under this issue for which the representative for the workmen did not press and gave a statement to this effect on 26th February, 1974, hence I decide this issue against the workmen.

Issue No. 11.—Issue No. 11 concerns dispute No. 9 for which the representative for the workmen did not press, hence I decide this issue against the workmen.

Issue No. 12.—Issue No. 12 relates to dispute No. 10 in respect whereof a compromise has taken place on 3rd March, 1977, according to which the management shall pay to the workman concerned Shri Brahma Nand one month's wage and the reupon the dispute shall stand withdrawn. I decide this issue accordingly.

Issue No. 13.—Issue No. 13 relates to dispute No. 11 which the representative of the workmen did not press and gave a statement on 26th February, 1974, to that effect. I, therefore, decide this issue against the workmen.

As far as issue Nos. 14, 15, 16 are concerned which relates to dispute No. 12, 13 and No. 13. I shall be giving another award hereafter. I, therefore, give my this interim award in respect of dispute Nos. 1 to 11 except No. 3 under the reference as follows:—

Dispute No. 1.—The workers shall be supplied cloth manufactured in the factory at Ex-Mill Price in the following quantity:—

- | | |
|-------------------|------------------------|
| (1) Cotton Cloth | .. 80 meters per year. |
| (2) Terrene Cloth | .. 20 meters per year. |

The workers may purchase cotton cloth in lieu of Terrene cloth detailed at above, as per arrangements derived under issue No. 4.

Dispute No. 2.—As the cycle stand is no more in existence, hence the question of its remodelling does not arise but the workmen can reiterate their demand in respect of cycle stand in the changed circumstances.

Dispute No. 4.—The basic pay of Dhani Ram, son of Shri Raj Chand should be fixed at that of Semi-skilled. A workman with effect from 1st February, 1972, the date of notification of the reference, at the rate of Rs 32 plus Rs 8-34, 10 instead of Rs. 26 plus Rs. 8-34, other thing being the same.

Dispute No. 5.—Shri Mangtoo and Manga should be paid the wages of a Machine man with effect from 1st February, 1972, the date of notification of the reference.

Dispute No. 6.—The representative for the workmen did not press this dispute, hence Shri Arjan Singh, son of Shri Gaonda, is not entitled to double wages for 31st May, 1970.

Dispute No. 7.—That the management shall pay Rs 60 to the workman concerned Shri Arjan Singh, son of Shri Khem Singh and on this payment this demand shall stand withdrawn.

Dispute No. 8.—The representative for the workmen did not press dispute No. 8, hence the suspension of Shri Choth Mal, son of Sh. Kalu Ram was justified and in order. He is not entitled to any relief.

Dispute No. 9.—The representative for the workmen did not press this demand, hence it is not decided in their favour.

Dispute No. 10.—The management shall pay to the workman concerned Shri Brahma Nand one month wage and thereupon this dispute shall stand withdrawn.

Dispute No. 11.—The representative for the workmen did not press this demand, hence it is not decided in their favour.

My award on dispute Nos. 3, 12 and 13 shall follow.—

NATHU RAM SHARMA,

Dated the 27th October, 1977.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 1026, dated 27th October, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 27th October, 1977.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 11574-4Lab-77 29160.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s. Khadi Ashram, G.T. Road, Panipat.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 31 of 1972

between

SHRI MANNU LAL, WORKMAN AND THE MANAGEMENT OF M/S. KHADI
ASHRAM, G.T. ROAD, PANIPAT

AWARD

By order No. ID/KNL/12-A-71/1261, dated 17th January, 1972, the Governor of Haryana referred the following dispute between the management of M/s. Khadi Ashram, G.T. Road, Panipat and its workman Shri Mannu Lal to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Mannu Lal was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them.

The workman alleged,—*vide* notice of demand, dated 1st July, 1971, served by him on the management that he had been transferred from Panipat to Ladwa,—*vide* order dated 31st March, 1971, unauthorisedly and illegally and that his services had been illegally terminated as a result of his refusal to obey and comply with the aforesaid orders of transfer and that he was thus entitled to reinstatement with continuity of service and full back wages.

The management pleaded,—*vide* written statement filed by them that the orders of transfer of the workman from Panipat to Ladwa were legal and proper and that he had been transferred even earlier, in the year 1960-61 from Ambala City to Panipat and that he had subsequently been transferred from one branch of Panipat to another branch of Panipat and that they had full right to order his transfer from one branch to the other in the interest of administration, they however, admitted that as a result of refusal of the workman concerned to comply with the order of his transfer from Panipat to Ladwa after he had been relieved on 31st March, 1971, of his duties at Panipat, they finally considered him as absent from duty and showed him as having left the job of his own accord. They raised a plea by way of an amended written statement filed by them with permission of this Court that they were not an Industry. They stated that the reference was invalid as the Government of the State of Haryana had no authority and jurisdiction to make the reference.

The workman reiterated the allegations made by him in the notice of demand and controverted the pleas of the management,—*vide* rejoinder filed by them with the result that the following issues were framed on pleas of the parties,—*vide* orders, dated 11th April, 1972, 26th June, 1974 and 13th October, 1975 :—

- (1) Whether the reference is invalid ?
- (2) Whether the Khadi Ashram Panipat is an Industry within the meaning of the Industrial Disputes Act, 1947 ? If not, with what effect ?
- (3) Whether the management had the right to transfer of the workman from Panipat to Ladwa ?
- (4) If yes, whether the workman was justified in refusing the order of transfer ?
- (5) Whether the termination of services of Shri Mannu Lal was justified and in order ? If not, to what relief is he entitled ?

I have heard authorised representatives of the parties concerned and carefully seen the records. I, decide the issues as under :—

Issue Nos. 1 & 2.—The pleas giving rise to these issues were not pressed by the management and as such both these issues are decided against them.

Issue No. 3.—This is an most important issue in the case, inasmuch as, in case it is held that the management had the right to order transfer of the workman from Panipat to Ladwa, the termination of his services by them would be obviously justified in view of his admitted refusal to comply with this order despite repeated letters sent to him in this behalf each directing him to join his duties at the place of his transfer.

The management brought on record the original letter of appointment of the workman concerned, Exhibit M-1, bearing a condition that his job was transferable. Even though the workman denied having received a copy of such a letter, yet I see no reasons to disbelieve the statement of Shri Hari Singh, Office Incharge of the management concerned, examined as MW-1, that he (workman) was appointed,—*vide* letter Exhibit M-1, dated 10th December, 1958. The statement of Shri Hari Singh is found further corroborated by an admission of the workman that he was initially appointed in Ambala Central Stores and that these Stores were subsequently shifted to Panipat with the result that he had to come down to Panipat along with other members of the Staff from Ambala. The deposition of the workman that he was never transferred to Rajputana branch of the management at Panipat Central Stores, Panipat, was stood rebutted by the documentary evidence consisting of an order copy Exhibit M-2 and the statement of Shri Hari Singh, showing his transfer from Central Stores, Panipat to the branch Rajputana Bazar, Panipat. I am thus convinced that the job of the workman was transferable according to the appointment letter Exhibit M-1 and that he had actually been transferred from one place to another in pursuance of this letter.

Even assuming that there was no term of the contract of service of the workman concerned authorising his transfer from one place to the another, the management have an implied authority to order such transfers *bona fide*.—*vide* 1966 ILLJ 440, an authority of the Honourable Supreme Court, in the interest of administration. It would be thus important to state *in extenso* some of the observations of the Honourable the Supreme Court contained in the aforesaid authority on the subject as under:—

Held, there is no doubt that the banks are entitled to decide on a consideration of the necessities of banking business whether the transfer of an employee should be made to a particular branch. There is also no doubt that the management is in the best position to judge how to distribute its employees between the different branches. We are, therefore, of opinion that the industrial tribunal should be very careful before they interfere with the orders made by the banks in the discharge of their managerial functions. It is true that if an order of transfer is made *mala fide* or for some ulterior purpose like punishing an employee for his trade union activities the industrial tribunals should interfere and set aside such an order, because the *mala fide* exercise of power is not considered legal exercise of the power. But the finding of *mala fide* should be reached by industrial tribunals only if there is sufficient and proper evidence in support of the finding. Such a finding should not be reached capriciously or on flimsy grounds as the industrial tribunal has done in this case.

It would be interesting to note in this connection that there is no allegations by the workman either in the notice of demand or in the rejoinder or even in his own statement made by him as his witness, that the management orders his transfer from Panipat to Ladwa dishonestly in order to victimise him for his trade union activities or some other reasons and it is thus obvious that the orders of his transfer cannot be said to be *mala fide* and were on the other hand made in good faith and *bona fide*, on his own showing. In absence of a plea and evidence that the orders of his transfer were *mala fide* these orders were obviously within the ambit and proper jurisdiction of the management. I, thus decide this issue in favour of the management.

Issue No. 4.—In view of my findings on issue No. 3 this issue stands decided against the workman.

Issue No. 5.—Having regard to my findings on issue No. 3 and 4 the termination of services of the workman was obviously justified and in order and he is not entitled to any relief. I, hold and decide this issue accordingly and answer the reference while returning the award in these terms.

Dated the 25th October, 1977.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 2326, dated 31st October, 1977

Forwarded (four copies) to the Secretary to Government, Haryana Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana Rohtak.